



RULE-MAKING ORDER

CR-103 (June 2004)
(Implements RCW 34.05.360)

Agency: Insurance Commissioner

☐ Permanent Rule
☐ Emergency Rule

Effective date of rule:

Permanent Rules

☐ 31 days after filing.
☒ Other (specify) April 1, 2005 (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Effective date of rule:

Emergency Rules

☐ Immediately upon filing.
☐ Later (specify) _____

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

☐ Yes ☒ No If Yes, explain:

Purpose: These new regulations establish new prima facie rates that are more in line with the NAIC model and better protect consumers. Chapter 284-34 WAC was reviewed and rewritten in a more clear and understandable way.

Insurance Commissioner Matter No. R 2002-02

Citation of existing rules affected by this order:

Repealed: WACs 288-34-010, 284-34-020, 284-34-030, 284-34-040, 284-34-050, 284-34-060, 284-34-070

Amended:

Suspended:

Statutory authority for adoption: RCWs 48.02.060, 48.30.010, 48.34.100, and 48.34.110

Other authority :

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR 04-23-073 on November 15, 2004 (date).

Describe any changes other than editing from proposed to adopted version: 284-34-110 (11), 284-34-120 (2) & (4), 284-34-130 (3), 284-34-160 and 284-34-180 were rewritten for clarification; 284-34-150(2)(b) ninety-six cents was written in; 284-34-260 (3) (c) April was changed to October.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

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EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- ☐ That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- ☐ That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

Date adopted: January 4, 2005

NAME (TYPE OR PRINT)

Mike Kreidler

SIGNATURE

TITLE

Insurance Commissioner

CODE REVISER USE ONLY
Information input by Agency

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

JAN 4 2005

TIME 4:36 PM
WSR 05-02-076

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

| | | | | | | |
|---|-----|-------|---------|-------|----------|-------|
| Federal statute: | New | _____ | Amended | _____ | Repealed | _____ |
| Federal rules or standards: | New | _____ | Amended | _____ | Repealed | _____ |
| Recently enacted state statutes: | New | _____ | Amended | _____ | Repealed | _____ |

The number of sections adopted at the request of a nongovernmental entity:

| | | | | | |
|-----|-------|---------|-------|----------|-------|
| New | _____ | Amended | _____ | Repealed | _____ |
|-----|-------|---------|-------|----------|-------|

The number of sections adopted in the agency's own initiative:

| | | | | | |
|-----|-----------|---------|-------|----------|----------|
| New | <u>17</u> | Amended | _____ | Repealed | <u>7</u> |
|-----|-----------|---------|-------|----------|----------|

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

| | | | | | |
|-----|-------|---------|-------|----------|-------|
| New | _____ | Amended | _____ | Repealed | _____ |
|-----|-------|---------|-------|----------|-------|

The number of sections adopted using:

| | | | | | | |
|---------------------------------------|-----|-----------|---------|-------|----------|----------|
| Negotiated rule making: | New | _____ | Amended | _____ | Repealed | _____ |
| Pilot rule making: | New | _____ | Amended | _____ | Repealed | _____ |
| Other alternative rule making: | New | <u>17</u> | Amended | _____ | Repealed | <u>7</u> |

NEW SECTION

WAC 284-34-100 What is the purpose of this regulation? The purpose of this regulation, WAC 284-34-100 through 284-34-260, is to protect debtors and the public by establishing a system of rate, policy form, and operating standards for the transaction of consumer credit insurance. This regulation interprets and implements the sections of Title 48 RCW that apply to consumer credit insurance, including, but not limited to, the following sections: RCW 48.02.060 (3)(a), 48.24.040 and chapter 48.34 RCW.

NEW SECTION

WAC 284-34-110 What definitions are important throughout this regulation? (1) **"Affiliate"** has the same meaning as stated in RCW 48.31B.005(1).

(2) **"Closed-end credit"** means any credit transaction that does not meet the definition of open-end credit.

(3) **"Control"** has the same meaning as stated in RCW 48.31B.005(2).

(4) **"Compensation"** means any form of payment that results directly from the sale of consumer credit insurance, including:

- (a) Commissions;
- (b) Dividends;
- (c) Equipment;
- (d) Expense allowances or reimbursements;
- (e) Experience refunds;
- (f) Facilities;
- (g) Gifts;
- (h) Goods or services;
- (i) Retrospective rate credits; or
- (j) Service fees.

(5) **"Consumer credit insurance"** means credit life insurance or credit accident and health insurance defined in RCW 48.34.030.

(6) **"Credit transaction"** means an agreement to:

- (a) Repay money loaned;
- (b) Pay for a loan commitment made; or
- (c) Pay for goods, services, or property sold or leased.

Payment would be made at a future date or dates.

(7) **"Evidence of individual insurability"** means a statement furnished by the debtor related to:

(a) The health status or health or medical history of the debtor;

(b) The occupation of the debtor; or

(c) Other conditions for the insurance to take effect.

Evidence of individual insurability does not include information related to the eligibility of the debtor for coverage.

(8) **"Loss ratio"** means incurred claims divided by the sum of earned premiums and imputed interest earned on unearned premiums. The commissioner imputes interest at the maximum rate permitted for the valuation of whole life insurance.

(9) **"Net debt"** means the amount needed to repay all remaining debt in a single payment. Net debt does not include unearned interest and other unearned finance charges.

(10) **"Open-end credit"** means a credit agreement in which the creditor:

(a) Allows repeated transactions;

(b) Applies finance charges to unpaid balances; and

(c) May allow additional credit if part of the balance is repaid.

(11)(a) **"Preexisting condition"** means any condition for which the insured debtor received medical advice, consultation, or treatment.

(b) The insured debtor must have received the medical advice, consultation or treatment within six months before the insurance takes effect.

(c) The insured debtor must have become disabled within six months after the insurance takes effect.

(12) **"Premium"** means the same as RCW 48.18.170, and includes all forms of compensation.

(13) **"Underwriting"** means applying criteria under which the insurer:

(a) Issues or refuses to issue;

(b) Renews or refuses to renew; or

(c) Limits coverage.

Underwriting includes decisions by the insurer based on eligibility criteria or evidence of individual insurability.

NEW SECTION

WAC 284-34-120 What rights do debtors have? (1) A debtor has the right to know about all available credit insurance plans. The creditor must inform every debtor about:

(a) Each plan of insurance for which the debtor is eligible; and

(b) The premium or insurance charge for each plan of insurance.

(2) If the creditor requires consumer credit insurance, then the debtor has the right to provide alternative insurance coverage. The creditor must tell the debtor before the transaction is completed that the debtor may provide alternative insurance coverage. The debtor may:

(a) Use existing insurance policies the debtor owns or controls; or

(b) Get coverage from any authorized insurer.

(3) Debtor's rights when a policy of group consumer credit insurance ends:

(a) The insurer must continue coverage for the entire period for which a premium has been paid. This paragraph applies if the policy provides for:

(i) Single premium payments; or

(ii) Premium payments that prepay coverage beyond one month.

(b) The insurer must provide termination notice to the insured debtor at least thirty days before coverage ends. If the policy provides for monthly premium payments, the insurer does not have to provide termination notice if the debtor obtains equivalent coverage and no lapse of coverage occurs.

(4) For coverage on refinanced debt, all exclusions and policy limitations will apply as of the first date that the debtor first became insured for the original debt.

This subsection applies to the amount of debt and term of the debt outstanding on the day the debtor refinances.

NEW SECTION

WAC 284-34-130 What obligations do insurers have? (1) If the creditor adds insurance charges or premiums to the debt, the insurer must collect the premium or charges within sixty days after it is added to the debt.

(2) If the debtor refinances and pays off the debt before the scheduled maturity date, the insurer must terminate existing insurance before any new insurance may be issued to provide coverage for the refinanced debt.

(3) If insurance coverage ends due to prepayment before the scheduled maturity date, the insurer must terminate coverage and comply with WAC 284-34-190 and refund all unearned insurance or premium charges and cause those amounts to be paid or credited to the debtor. The following exceptions apply:

(a) The insurer does not have to refund insurance charges or premiums for any coverage under which a lump sum insurance benefit is paid.

(b) The insurer does not have to refund insurance charges or premiums for any period of disability under which credit accident and health benefits are paid.

(c) The insurer must comply with WAC 284-34-170 (1)(d)(ii), which says that disability premium charges must be returned for the months following the billing month in which the disability occurred.

(4) The insurer may apply a maximum limit on total claim payments only to a specific individual policy or group certificate.

NEW SECTION

WAC 284-34-140 How will the commissioner determine if benefits are reasonable in relation to premium charges? (1) Insurers must provide consumer credit insurance benefits that are reasonable in relation to the premium charged. This means that debtors must be provided reasonable benefits in return for their premium payments.

(a) The commissioner presumes that the rates in WAC 284-34-150 and 284-34-170, as adjusted under WAC 284-34-210, satisfy this standard. These rates allow:

(i) Sixty percent of premium for benefits on one debtor; and

(ii) Forty percent of premium for expenses and profit.

(b) If an insurer wants to use rates that are different than those in WAC 284-34-150 or 284-34-170, the insurer must file those rates under WAC 284-34-220.

(i) The commissioner must approve the alternative rates before they are used; and

(ii) The insurer must provide data that prove the alternative rates will result in reasonable benefits in relation to premium charges.

(2) The commissioner presumes excessive compensation requires premiums that are not reasonable in relation to benefits provided to debtors. The commissioner presumes that compensation is excessive if:

(a) Total compensation exceeds thirty percent of the net written prima facie premium; or

(b) More than twenty-five percent of net written prima facie premium is paid directly or indirectly to a creditor.

(3) If an insurer does not provide coverage to a debtor during a time period, the insurer may not charge premium for that period.

(4) If an insurer files any form providing coverage that is different from that described in WAC 284-34-150 through 284-34-180, the insurer must prove that the rates:

(a) Will develop a loss ratio of sixty percent; or

(b) Are actuarially consistent with the rates in WAC 284-34-150 and 284-34-170.

NEW SECTION

WAC 284-34-150 What are the standards for prima facie credit life insurance rates? Subject to WAC 284-34-160 and 284-34-220, the commissioner presumes the prima facie rates shown below meet the requirements of WAC 284-34-140. An insurer may use these rates without filing additional actuarial support.

(1) Monthly outstanding balance basis:

(a) Outstanding insured debt:

(i) Single life: Sixty cents per month per one thousand dollars of outstanding insured debt.

(ii) Joint life: Ninety-six cents per month per one thousand dollars of outstanding insured debt.

(b) Age or age bracket basis: The actuarial equivalent of 1/12 the annual mortality rate for male lives according to commissioner's 1980 standard ordinary mortality table. These conditions apply to the coverage:

(i) The insurer must define the rated age of the debtor in the individual policy or group certificate of insurance;

(ii) The mortality table must be on the same age basis as the coverage;

(iii) If premiums change according to the attained age of the debtor and increase on the debtor's birthday, the mortality table must be on the age near birthday basis;

(iv) The insurer must show the premiums or premium rates for the entire term of coverage in the individual policy or group certificate of insurance; and

(v) All rate changes must be approved by the commissioner.

(2) Single premium basis: If an insurer charges premium on a single premium basis, the rates must be computed by using:

(a) The following formula; or

(b) An alternative formula approved by the commissioner. The alternative formula must produce rates that are equivalent to those produced by the following formula:

$$S_p = 3 \sum_{t=1}^n (O_p/10) \times (I_t/I_i)$$

S_p = Single premium per one hundred dollars of initial insured net debt.

O_p = Sixty cents or ninety-six cents, the prima facie life insurance premium rate per one thousand dollars for monthly outstanding balance coverage from subsection (1) of this section.

I_t = The scheduled amount of insurance for month t .

I_i = Initial amount of insurance. For a net insurance policy, I_i equals the initial principal balance of the loan.

n = The number of months in the term of the insurance.

(3) If an insurer provides benefits that are different than those described in this section, premium rates for those benefits must be actuarially consistent with rates in this section.

NEW SECTION

WAC 284-34-160 What mandatory benefits apply to prima facie credit life insurance rates? The premium rates in WAC 284-34-150 apply to credit life insurance contracts that contain terms as favorable to insured debtors as the terms below:

(1) Suicide:

(a) An insurer may exclude coverage for suicide occurring within one year after the effective date of the coverage.

(b) Open-ended credit transactions: An insurer may apply a new suicide exclusion period to the portion of a new advance or charge that causes the amount of credit life insurance to exceed the greatest amount previously subject to this exclusion.

(2) Insurers may elect to include age restrictions in their certificates or policies, subject to the following conditions:

(a) An age restriction may say that no insurance will become effective on debtors who are age sixty-six or older.

(b) An age restriction may say that all insurance will end when the debtor becomes age sixty-six.

(c) Insurance coverage must continue until the end of the period for which a premium payment or charge is made.

NEW SECTION

WAC 284-34-170 What are the standards for credit accident and health insurance rates? (1) Subject to WAC 284-34-180 and 284-34-220, the commissioner presumes the prima facie rates shown below meet the requirements of WAC 284-34-140. An insurer may use these rates without filing additional actuarial support.

(a) Single-premium basis for the entire period of debt: The prima facie rate per one hundred dollars of initial insured debt is shown in the table below. Rates for monthly periods other than those listed must be interpolated:

| No. of Months | Nonretroactive Benefits | | Retroactive Benefits | | |
|------------------|----------------------------|------------|----------------------|------------|------------|
| | 14- day | 30- day | 7- day | 14- day | 30- day |
| 1 | 0.08 | 0.00 | 0.27 | 0.21 | 0.00 |
| 3 | 0.49 | 0.18 | 0.71 | 0.66 | 0.47 |
| 6 | 0.95 | 0.47 | 1.16 | 1.12 | 0.87 |
| 12 | 1.49 | 0.86 | 1.85 | 1.77 | 1.39 |
| 18 | 1.83 | 1.13 | 2.38 | 2.26 | 1.76 |
| 24 | 2.07 | 1.35 | 2.81 | 2.65 | 2.04 |
| 30 | 2.25 | 1.52 | 3.17 | 2.97 | 2.28 |
| 36 | 2.41 | 1.67 | 3.48 | 3.25 | 2.48 |
| 48 | 2.65 | 1.90 | 3.98 | 3.69 | 2.80 |
| 60 | 2.83 | 2.09 | 4.38 | 4.05 | 3.05 |
| 72 | 2.97 | 2.24 | 4.66 | 4.33 | 3.25 |
| 84 | 3.09 | 2.37 | 4.87 | 4.57 | 3.42 |
| 96 | 3.18 | 2.47 | 5.04 | 4.77 | 3.56 |
| 108 | 3.26 | 2.56 | 5.17 | 4.93 | 3.68 |
| 120 | 3.32 | 2.63 | 5.26 | 5.07 | 3.77 |

(b) Monthly outstanding balance basis for closed-end debt: Insurers must compute premiums according to:

(i) A formula approved by the commissioner that produces rates actuarially consistent with the single premium rates in (a) of this subsection; or

(ii) This formula:

$$OP_n = 10 SP_n \times \sum_{t=1}^n (3 a_{n-t+1})$$

where $a_t = (1 - 1/(1+i)^t)/i$.

SP_n = Single premium rate per one hundred dollars of initial insured debt repayable in n equal monthly installments as shown in (a) of this subsection.

OP_n = Monthly outstanding balance premium rate per one thousand dollars.

n = The number of months in the term of the insurance.

i = The monthly loan interest rate.

(c) Insurers must calculate single premium rates using the actuarial equivalent of (a) of this subsection.

(i) If an insurer provides coverage for constant maximum indemnity for a given period of time, the commissioner presumes premiums based on the rates in (a) of this subsection are earned according to the rule of anticipation.

(ii) The insurer may estimate the portion of the single premium earned in the first month of coverage by the average of the pro rata earned premium and the "sum of the digits" (also called the "Rule of 78") earned premium.

(iii) If an insurer provides critical period coverage with a benefit period of at least twelve months or the remaining term of the loan:

(A) The rates must be actuarially consistent with the rates for full term benefits in (a) of this subsection.

(B) To ensure actuarial consistency, the insurer may calculate conversion ratios based on the 1974 basic tables of credit A&H claim costs published in the NAIC Proceedings--1975 Vol. I, pages 675-691, or other suitable morbidity table.

(d) Lump sum disability coverage:

(i) The commissioner presumes the monthly premium charges per one hundred dollars of insured balance shown below meet the requirements of WAC 284-34-140. An insurer may use these rates without filing additional actuarial support:

(A) For a ninety-day qualifying period, fifteen cents; and

(B) For a one hundred eighty-day qualifying period, nine cents.

(ii) The insurer must provide a benefit equal to the insured balance on the date of disability. The insurer must return disability premium charges to the debtor for months following the billing month when the disability occurred.

(iii) The insurer may provide lump sum benefits on a single premium basis using the credit life insurance formula in WAC

284-34-150(2) and the rates in (d)(i) of this subsection in place of $O_p/10$.

(2) If insurance is written on open-end credit, the commissioner presumes that the prima facie rates for credit accident and health insurance shown below meet the requirements of WAC 284-34-140.

(a) Open-end credit rates must comply with WAC 284-34-170(3) and 284-34-220. An insurer may use these prima facie rates and the formulae used to calculate them without filing additional actuarial support.

(b) If approved by the commissioner, the insurer may use other formulae to convert rates from a single premium basis to a monthly outstanding balance basis.

(c) If the maximum benefit of the insurance equals the net debt on the date of disability, the term of the loan is calculated according to the formula: $1/(\text{benefit percent})$. The prima facie rate applied to the insured net debt is the portion of the single premium rate earned in the first month of coverage during the calculated term.

(d) If the maximum insurance benefit equals the outstanding balance of the loan on the date of disability plus any interest accruing on that amount during disability, the term of the insurance (n) is estimated by using the following formula:

$$n = \ln B - (1000i/x) @ \ln(v)$$

where:

i = Interest rate on the account or the lowest interest rate in the range used for the class of loan;
x = Monthly payment per one thousand dollars of coverage consistent with the term calculated above; and
 $v = 1/(1 + i)$.

(e) The calculated value of the term is used to look up a single premium rate in WAC 284-34-170 (1)(a). The insurer must calculate the prima facie rate applied to the insured net debt by multiplying the portion of the single premium rate earned in the first month of coverage by:

The adjustment n/a_n

Where:

n is the term calculated above, not to exceed forty-eight months; and
 $a_n = (1 - v^n)/i$.

(f) An insurer may use the following monthly premium rates per one thousand dollars of insured net debt as composite rates for the following minimum benefit plans:

(i) Fourteen-day nonretroactive plan: \$1.06

- (ii) Thirty-day nonretroactive plan: \$0.81
- (iii) Seven-day retroactive plan: \$1.72
- (iv) Fourteen-day retroactive plan: \$1.58
- (v) Thirty-day retroactive plan: \$1.18

The insurer must state the monthly benefit in the certificate of insurance as a percentage of the insured net debt. The insurer must provide a monthly benefit sufficient to pay off the insured debt, including accruing interest, within forty-eight months.

(3) If an insurer sells accident and health coverage on a joint basis (insuring two debtors on the same loan), the joint coverage rate must be computed by multiplying the corresponding single coverage rate by 1.6.

(4) If an insurer provides benefits that are different than those described in this section, premium rates for those benefits must be actuarially consistent with rates in this section.

NEW SECTION

WAC 284-34-180 What mandatory benefits apply to prima facie credit accident and health insurance rates? The premium rates in WAC 284-34-170 apply to contracts providing credit accident and health insurance that contain terms as favorable to insured debtors as the terms below:

(1) The insurer may exclude benefits for disabilities that result from the following:

- (a) War or any act of war;
- (b) Elective surgery;
- (c) Intentionally self-inflicted injury;
- (d) Flight in any aircraft other than a commercial scheduled aircraft;
- (e) A preexisting condition. The preexisting condition exclusion does not apply to disabilities that begin at least six months after the effective date.

(2) Open-ended credit transaction: An insurer may apply a preexisting condition exclusion only to the portion of a new advance or charge that causes the amount of credit accident and health insurance to exceed the greatest amount previously subject to this exclusion.

(3) Definition of disability:

(a) For the first twenty-four months of disability: Total disability means the inability to perform the essential functions of the debtor's own occupation.

(b) After the first twenty-four months: Disability means the inability of the insured to perform the essential functions of any occupation for which the debtor is reasonably suited due to education, training or experience.

(4) An insurer may require a statement that the debtor is actively at work before insurance becomes effective.

(a) The insurer may not require the insured debtor to be employed more than thirty hours per week.

(b) If a debtor is absent due to a regular day off, holiday or paid vacation, the commissioner presumes the debtor is actively at work.

(5) Insurers may elect to include age restrictions in their certificates or policies, subject to the following conditions:

(a) An age restriction may say that no insurance will become effective on debtors who are age sixty-six or older.

(b) An age restriction may say that all insurance will end when the debtor becomes age sixty-six.

(c) Insurance coverage must continue until the end of the period for which a premium payment or charge is made.

(6) The insurer must provide a daily benefit equal to or greater than one-thirtieth of the monthly benefit payable under the policy.

NEW SECTION

WAC 284-34-190 What refund formulas are allowed? (1) The commissioner must approve refund formulas before they are used. The insurer must state the basis for the refund in the policy or certificate delivered to the debtor. The following methods, or other methods approved by the commissioner must be used:

(a) Pro rata method. The pro rata unearned gross premium method must be used for:

(i) Level term credit life insurance;

(ii) Credit accident and health insurance if the insured is covered for a constant maximum indemnity; and

(iii) All credit insurance where the debtor is not charged on the single premium basis.

(b) Rule of anticipation. Unless the coverage is listed in (a) of this subsection, the refund must be at least what would have been charged for the remaining coverage for the remaining term of debt. An insurer may file other methods if they generate equivalent results.

(2) If coverage ends:

(a) The insurer may not charge insurance premium for the first fifteen days of a month.

(b) The insurer may charge premium for a full month if the debtor is covered for sixteen days or more.

(3) No refund of five dollars or less need be made.

NEW SECTION

WAC 284-34-200 Do insurers have to file experience reports? Each authorized insurer in this state must file an annual report of consumer credit insurance written on a calendar year basis. The insurer must file the report with the commissioner and the National Association of Insurance Commissioners (NAIC). The report must:

(1) Use the Credit Insurance Supplement - Annual Statement Blank approved by the NAIC;

(2) Contain data separately for each state. An insurer may not use an allocation of its country-wide experience; and

(3) Be filed by the due date in the instructions to the annual statement.

NEW SECTION

WAC 284-34-210 When will the commissioner adjust prima facie rates, and how will rate changes be implemented? (1) Every three years, the commissioner will review the loss ratio standards in WAC 284-34-140 and the prima facie rates in WAC 284-34-150 and 284-34-170 to:

(a) Determine the rate of expected claims on a statewide basis;

(b) Compare the rate of expected claims with the rate of actual claims for the preceding three years using data reported in the annual statement supplement or other available source(s);

(c) Determine if new rates should be published based on the rate of expected claims; and

(d) If needed, publish new statewide prima facie rates, and establish a date when all insurers must file new rates.

(2) When the commissioner publishes new rates, they will reflect:

(a) The difference between actual claims based on experience; and

(b) Expected claims based on the loss ratio standards in WAC 284-34-140 applied to the prima facie rates in WAC 284-34-150 and 284-34-170.

NEW SECTION

WAC 284-34-220 What rates may an insurer use for its direct business? (1) An insurer may file rates that are equivalent to the prima facie rates in WAC 284-34-150 and 284-34-170 and use those rates without further proof of their reasonableness.

(2) An insurer must file rates and supporting actuarial documentation if it proposes:

(a) Policy provisions more restrictive than those allowed for prima facie rates; or

(b) Rates higher than those developed according to the standard case rating procedure.

(3) An insurer must file rates in a manner that permits public disclosure of the rates and their application as described in a supporting actuarial memorandum. If an insurer wants the commissioner to withhold experience and proprietary rate development methods from public disclosure to preserve trade secrets or prevent unfair competition, the insurer must:

(a) File that information in a separate actuarial memorandum; and

(b) Clearly identify the information that is confidential.

(4) Any filings that do not include all data and calculations required by this section will be disapproved and returned to the insurer.

(5) An insurer may file rates that are higher than the prima facie rates included in WAC 284-34-150 and 284-34-170. The rates must be adjusted under WAC 284-34-210 and result in benefits that are reasonable in relation to the premium charged. When evaluating deviations, the commissioner will:

(a) Evaluate the insurer's total consumer credit insurance business, including insurance written by affiliated insurers, for each type of consumer credit insurance for which a rate deviation is being filed.

(b) Consider whether the insurer can be reasonably expected to develop a sixty percent loss ratio.

(c) Evaluate the actuarial justification to see if it proves that the benefits will be reasonable in relation to premium charged. The insurer must submit actuarial justification that includes:

(i) All calculations and supporting data required for the standard case rating procedure set forth in WAC 284-34-220(10). The insurer must show the loss ratio the rates are expected to develop.

- (ii) An actuarial memorandum that:
 - (A) Explains the calculations of all elements affecting earned premiums or incurred claims; and
 - (B) Projects experience from inception to equilibrium or termination.
- (6) The insurer must specify the account or accounts to which the deviated rates apply.
- (7) A deviated rate may be applied:
 - (a) Uniformly to all accounts of the insurer;
 - (b) Equitably to only one or more accounts of the insurer for which the experience has been less favorable than expected; or
 - (c) According to a case-rating procedure approved by the commissioner. The insurer must compare the rates developed by the proposed case-rating procedure to the rates developed by the standard case-rating procedure set forth in WAC 284-34-220(10).
- (8) A deviated rate may be in effect for a period no longer than the experience period used to establish the rate (i.e., one-year, two-years or three-years). An insurer may file a new rate before the end of a rate period, but no more than once during any twelve-month period.
- (9) A deviated rate may be used only by the insurer that filed the rate. If an account changes insurers, the rates approved for the prior insurer may not be used by the succeeding insurer.
- (10) Standard case rating procedure. An insurer may file rates calculated using this standard case rating procedure. If an insurer decides to use this procedure, the insurer must use it to rate all of its credit insurance in this state. Once an insurer selects this procedure, the insurer must continue to use it until a different procedure has been approved by the commissioner.
 - (a) Account case rate. The case rate for an account is determined as follows:
 - (i) If the account is a single account case or a multiple account case, the case rate must be determined by the formula in (b) of this subsection.
 - (ii) If the account is in a pooled account case, the case rate for each account must be determined by the formula set forth in (b) of this subsection.
 - (iii) If the account is new and the insurer has no experience in this state, the case rate for the account will be the prima facie rate under WAC 284-34-150 and 284-34-170.
 - (b) New case rate. The new case rate, NCR, is the sum of:
 - (i) The adjusted expense loading, AE; and
 - (ii) The prima facie rate, PFR, times the credibility adjusted case loss ratio at prima facie basis, CLR.
 - (iii) Formula: $NCR = AE + PFR \times CLR$.
 - (c) Definitions:

(i) NCR is equivalently redefined in (d) of this subsection.

(ii) ALR is the actual loss ratio for the case at prima facie rates.

(iii) ELR is the minimum loss ratio, equal to sixty percent.

(iv) Z is the credibility factor for the case.

(v) CLR is the sum of Z times ALR and (1-Z) times ELR.

(vi) E is the expense loading in the prima facie rate, equal to forty percent of the prima facie rate.

(d) Formulas:

(i) If CLR is less than ELR for credit life insurance or credit accident and health insurance, then $AE = E$, and $NCR = PFR[1 - (ELR - CLR)]$.

(ii) If CLR is greater than ELR for credit life insurance, $AE = E + .1(CLR - ELR)$, and $NCR = PFR[1 + 1.1(CLR - ELR)]$.

(iii) If CLR is greater than ELR for credit accident and health insurance, $AE = E + .2(CLR - ELR)$, and $NCR = PFR[1 + 1.2(CLR - ELR)]$.

(e) The new case rate will be the current case rate if the new case rate, as defined above, does not differ by more than five percent of the prima facie rate from the current case rate.

(f) If an insurer has filed deviated rates or has elected to use the standard case rating procedure, the insurer must file a new schedule of rates after it submits the credit insurance experience exhibit.

(i) This filing must include an actuarial memorandum that proves the new rates are appropriate and explains any differences in the character of the claim reserves and liabilities as reported in its:

(A) Exhibit 6 (claim reserves) and Exhibit 8 (claim liabilities) of its annual statement;

(B) Credit insurance experience exhibits for this state; and

(C) Experience as filed for the total of the cases subject to the rate filing.

(ii) The new rates must be placed in effect on September 1 of that year unless:

(A) The commissioner approves a different effective date; or

(B) The commissioner disapproves the rates within thirty days after receipt of the filing or by July 1 of that year, whichever is later.

(11) An insurer may file lower rates at any time. The commissioner must approve those rates before they are used.

(12) These definitions apply to this section:

(a) "**Case**" includes either a "**single account case**" or a "**multiple account case**" or a "**pooled account case**."

(i) **"Single account case"** means an account that is at least as credible as the minimum level of credibility elected by the insurer for defining a single account case. A single account case must exclude all accounts which have been included in multiple account cases. If the insurer makes no written election, the minimum credibility factor will be one hundred percent.

(ii) **"Multiple account case"** means two or more accounts of the same insurer having similar underwriting characteristics that are combined by the insurer for premium rating purposes.

(A) A single account case may not be included in a multiple account case; and

(B) All accounts, when combined, must be at least as credible as the minimum level of credibility the insurer selects for single account cases; and

(C) The commissioner must approve the accounts put into a multiple case account.

(iii) **"Pooled account case"** means a combination of all the insurer's accounts of the same plan of insurance. The pooled account case must have experience in this state and exclude all single account cases and multiple account cases.

(b) **"Earned premium"** means the total gross premiums that become due to the insurer adjusted for the change in unearned premium reserve. The insurer may reduce earned premium only for refunds and adjustments due to termination of coverage. The unearned premium reserve is calculated according to the refund formula in WAC 284-34-190.

(c) **"Experience"** means:

(i) Written premiums;

(ii) Earned premiums;

(iii) Earned premiums at prima facie rates;

(iv) Paid claims;

(v) Incurred claims;

(vi) Incurred claim count; and

(vii) The number of life years insured during the experience period.

(d) **"Experience period"** means the most recent period of time for which experience is reported. The experience period may not exceed three full years.

(e) **"Incurred claims"** means total claims paid during the experience period adjusted for the change in claim reserves and liabilities.

(i) The commissioner considers a disability claim incurred on the date disability commenced.

(ii) The commissioner may disallow that part of any claim reserve or liability that cannot be supported by verifiable data.

(f) **"Incurred claim count"** means the number of claims incurred for the case during the experience period. An incurred claim count includes:

(i) The total number of claims reported during the experience period, whether paid or in the process of payment.

(ii) Any incurred but not reported (IBNR) at the end of the experience period less the number of IBNR claims at the beginning of the experience period.

(iii) If a debtor has been issued more than one certificate for the same plan of insurance, only one claim may be counted.

(iv) If a debtor receives disability benefits, only the initial claim payment for that period of disability may be counted.

(g) **"Average number of life years"** means the average number of group certificates or individual policies in force during the experience period (without regard to multiple coverage) times the number of years in the experience period, or an equivalent calculation.

(h) **"Credibility table"** for purposes of the standard case rating procedure means the following table:

| Credit Life | Credit Accident and Health Plans Retroactive and Nonretroactive | | | Incurred Claim Count | Credibility Factor |
|-------------|--|--------|--------|-------------------------|-----------------------|
| | 7-day | 14-day | 30-day | | |
| 1 | 1 | 1 | 1 | 1 | 0.00 |
| 1,800 | 95 | 141 | 209 | 9 | 0.25 |
| 2,400 | 126 | 188 | 279 | 12 | 0.30 |
| 3,000 | 158 | 234 | 349 | 15 | 0.35 |
| 3,600 | 189 | 281 | 419 | 18 | 0.40 |
| 4,600 | 242 | 359 | 535 | 23 | 0.45 |
| 5,600 | 295 | 438 | 651 | 28 | 0.50 |
| 6,600 | 347 | 516 | 767 | 33 | 0.55 |
| 7,600 | 400 | 594 | 884 | 38 | 0.60 |
| 9,600 | 505 | 750 | 1,116 | 48 | 0.65 |
| 11,600 | 611 | 906 | 1,349 | 58 | 0.70 |
| 14,600 | 768 | 1,141 | 1,698 | 73 | 0.75 |
| 17,600 | 926 | 1,375 | 2,047 | 88 | 0.80 |
| 20,600 | 1,084 | 1,609 | 2,395 | 103 | 0.85 |
| 25,600 | 1,347 | 2,000 | 2,977 | 128 | 0.90 |
| 30,600 | 1,611 | 2,391 | 3,558 | 153 | 0.95 |
| 40,000 | 2,106 | 3,125 | 4,651 | 200 | 1.00 |

(i) The integral numbers above represent the lower end of the bracket for each credibility factor "Z." The upper end is one less than the lower end for the next higher Z factor.

(ii) To use this table, find the credibility factor from the credibility table for the experience group.

(iii) If actual loss ratios are less than fifty percent, use the average number of life years for both life insurance and disability insurance. Otherwise, use either the average number of life years or the incurred claims count.

If either of these measures cannot be accurately determined, the commissioner may accept reasonable approximations.

NEW SECTION

WAC 284-34-230 What obligations does an insurer have to supervise consumer credit operations? Each insurer transacting credit insurance in this state must:

(1) Periodically conduct a complete review of creditors. This review must include all aspects of the credit insurance business and assure compliance with all state insurance laws and regulations.

(2) Maintain written records of the reviews for examination by the commissioner for at least three years.

(3) Maintain a list of all licensed individuals who have sold or been compensated for the sale of consumer credit insurance. This list must show a licensed individual for each consumer credit insurance policy or certificate issued.

NEW SECTION

WAC 284-34-240 What practices are insurers prohibited from doing? The following practices, when engaged in by insurers in connection with the sale or placement of credit insurance, or as an inducement thereto, constitute unfair methods of competition and are subject to the enforcement provisions of RCW 48.30.010. An insurer must not:

(1) Offer or grant to a creditor any special advantage or service that is not included in either the group insurance contract or in the agency contract. This subsection does not prohibit payment of agent's commissions.

(2) Agree to deposit with a bank or financial institution money or securities of the insurer with the design or intent that the deposit will affect or replace a deposit of money or securities that otherwise would be required of the creditor by the bank or financial institution as a compensating balance or offsetting deposit for a loan or other advancement.

(3) Deposit money or securities without interest or at a lesser rate of interest than is currently being paid by the creditor, bank or financial institution to other depositors of like amounts for similar durations. This subsection does not prohibit an insurer from maintaining demand deposits or premium deposit accounts that the insurer needs to use in the ordinary course of the insurer's business.

NEW SECTION

WAC 284-34-250 What information must be disclosed to debtors? (1) If a debtor buys consumer credit insurance in connection with a credit transaction, the creditor must disclose this information to the debtor in writing:

(a) The debtor does not have to buy consumer credit insurance.

(b) The debtor may not need consumer credit insurance if the debtor has other insurance that covers the risk.

(c) The debtor does not have to buy consumer credit insurance to obtain credit approval.

(d) If the creditor offers more than one type of consumer credit insurance to debtors, whether the debtor can buy each type of insurance separately.

(e) The insurer may decide to deny coverage. This statement must list all factors that may cause the insurer to deny or limit coverage, including:

(i) Underwriting standards;

(ii) Exceptions to coverage;

(iii) Limitations and exclusions to coverage;

(iv) Eligibility criteria; and

(v) The date coverage will be effective.

(f) The debtor can cancel coverage within the first thirty days after receiving an individual policy or group certificate. The insurer or creditor must promptly refund or credit to the debtor's account all amounts charged for insurance or obtaining it.

(g) The debtor may cancel coverage at any time during the term of the loan if the:

(i) Debtor buys other insurance that covers the risk; or

(ii) Credit agreement does not require the debtor to buy consumer credit insurance.

(h) If the debtor cancels coverage, the insurer or creditor must promptly pay or credit to the debtor's account a refund of all unearned premium.

(i) That the debtor must provide evidence of alternative insurance acceptable to the creditor at the time of cancellation only if insurance is a requirement for the extension of credit.

(j) A brief description of the coverage, including a description of:

(i) The amount of insurance;

(ii) The term of insurance;

(iii) Insured events;

(iv) Any waiting or elimination period;

(v) Any applicable waiver of premium provision;

(vi) To whom the benefits would be paid; and

(vii) The rate for each type of coverage.

(k) If the premium or insurance charge(s) are financed, they are subject to finance charges at the rate applicable to the credit transaction.

(2) An individual policy or group certificate must, in addition to other requirements of RCW 48.34.090, state the following:

(a) Closed-end credit: The premium or amount of payment by the debtor separately for each kind of coverage.

(b) Open-end credit: The premium rate and the basis of premium calculation (e.g., average daily balance, prior monthly balance).

(c) If the scheduled term of insurance is less than the scheduled term of the credit transaction, the face of each individual policy or group certificate must display a prominent notice explaining that the insurance coverage will end before the loan ends.

(d) Each individual policy or group certificate must display a prominent notice of any exceptions, restrictions, limitations or exclusions.

NEW SECTION

WAC 284-34-260 What is the effective date of this regulation? (1) This regulation takes effect on April 1, 2005.

(2) Approval of all forms that do not comply with this regulation is withdrawn as of October 1, 2005. No form may be issued on or after October 1, 2005, unless it has been approved by the commissioner and conforms to this regulation.

(3) Group insurance:

(a) Certificates and premium rates used with existing policies must conform to this regulation by the first anniversary date of the policy on or after October 1, 2005. This includes, but is not limited to:

(i) Continuing insurance on a debtor where agreement between the insurer and the group policyholder, with or without notice to the debtor, is sufficient to terminate that insurance; and

(ii) Continuing insurance on a debtor where the insurer has the right to change premium rates with the approval of the commissioner.

(b) For the purpose of this subsection, no new form or policy that amends or replaces an existing policy of consumer credit insurance may alter the anniversary date of the policy.

(c) "Existing policy" means a policy in force prior to October 1, 2005.

REPEALER

The following sections of the Washington Administrative Code are repealed:

| | |
|----------------|---|
| WAC 284-34-010 | Credit life insurance. |
| WAC 284-34-020 | Credit accident and health insurance. |
| WAC 284-34-030 | Collection and remittance of premiums. |
| WAC 284-34-040 | Rate filings and deviations from prima facie rates. |
| WAC 284-34-050 | Refunds. |
| WAC 284-34-060 | Effective date--Implementation. |
| WAC 284-34-070 | Prohibited transactions. |